



भारत का राजपत्र

The Gazette of India

नवाभारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं. 39] नई विल्सनी, शुक्रवार, अगस्त 12, 1988/श्रावण 21, 1910
No. 39] NEW DELHI, FRIDAY, AUGUST 12, 1988/SHRAVANA 21, 1910

इस भाग में भिन्न पृष्ठ संख्या वाली जाती है जिससे कि यह अलग संकलन
के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed
as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on 12th August, 1988:—

BILL NO. 83 OF 1988

A Bill to amend the Muslim Women (Protection of Rights on Divorce) Act, 1986.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Muslim Women (Protection of Rights on Divorce) Amendment Act, 1988.

(2) It shall come into force at once.

2. In the Muslim Women (Protection of Rights on Divorce) Act, 1986 (hereinafter referred to as the principal Act), for the long title, the following long title shall be substituted, namely:—

“An Act to codify and enforce the rights of divorced Muslim women under the *Shariat* and to provide for matters connected therewith or incidental thereto.”.

3. In section 2 of the principal Act, for class (b), the following clause shall be substituted, namely:—

“(b) ‘iddat period’ means, the period for which the divorced woman is prohibited from re-marriage under the *Shariat*;”.

Short title and commencement

Substitution of new long title for the existing long title.

Amendment of section 2.

25 of 1986.

Amend-
ment of
section 3.

4. In section 3 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973, a divorced woman shall be entitled to—

(a) a reasonable and fair maintenance for the *iddat* period to be paid to her within the *iddat* period by her former husband;

(b) a reasonable and fair provision to be made by her former husband to her for education and up bringing of their children for a period of two years from the respective dates of birth of such children, provided she exercises her option of custody:

Provided that nothing contained in this clause shall affect the entitlement of any minor child in the custody of the mother to receive a reasonable and fair maintenance from his father in accordance with the *Shariat*;

(c) an amount equal to the sum of *mahr* or the part thereof which remains unpaid on the date of divorce; and

(d) all her properties including gifts made to her before or at the time of marriage or after her marriage by her relatives or friends or the husband or any relatives of the husband or his friends.”;

(ii) after sub-section (1), the following sub-sections shall be inserted, namely:—

“(1A) Where the marriage has not been consummated, a divorce woman shall be entitled only to a reasonable gift as determined by a Magistrate, if no *mahr* had been agreed upon or if agreed, remained unpaid at the time of divorce.

(1B) Where the divorce has been given at the instance of the wife, terms agreed to at the time of divorce shall prevail.”;

(iii) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) Where a reasonable and fair maintenance or *mahr* as due has not been paid or a reasonable and fair provision has not been made for the maintenance of the children, or her properties, referred to in clause (d) of sub-section (1), have not been delivered to a divorced woman on her divorce, she or any one duly authorised by her, on her behalf, may make an application to a Magistrate for an order for payment of such maintenance, *mahr* or provision or the delivery of such properties, as the case may be.”; and

(iv) in sub-section (3), for the words “Where an application has been made under sub-section (2) by a divorced woman, the Magistrate may, if he is satisfied that.....have not been delivered to her” the words “Where an application has been made under sub-section (2) by a divorced woman, the Magistrate may, if he is

2 of 1974,

satisfied that the former husband has failed to pay the *mahr* or any part thereof or a reasonable and fair maintenance for the *iddat* period or has failed to make a fair and reasonable provision for the maintenance of children or to deliver the properties" shall be substituted.

5. In section 4 of the principal Act,—

(i) for sub-section (1), the following sub-section shall be substituted, namely:—

“(1) Notwithstanding anything contained in the Code of Criminal Procedure, 1973 or in any other law for the time being in force, where a Magistrate is satisfied that a divorced woman has not remarried and is not able to maintain herself after the *iddat* period, he shall make an order directing her blood relatives, in the following order, to pay for her maintenance in the proportion in which they would inherit her property on her death:—

(i) her children, if any;

(ii) in case there are no children or the children have not attained majority or having attained majority do not have the means to maintain her, her parents;

(iii) in case the parents are not living or do not have the means to maintain her, her brothers or sisters; and

(iv) if none of the above are able to maintain her, her nearest living blood relative who, in the opinion of the Magistrate, has the means to maintain her.”; and

(ii) In sub-section (2),—

(a) for the words “under the second proviso to sub-section (1)”, the words “under sub-section (1)” shall be substituted;

(b) the words “, out of its own funds earmarked for general charitable purposes or a special fund consisting of donations, if any, received for the purpose.” shall be added at the end.

6. For section 5 of the principal Act, the following section shall be substituted, namely:—

“5. At the first hearing of the application under sub-section (2) of section 3, a divorced woman and her former husband by a joint affidavit may opt out of the application of this Act.”

7. For section 7 of the principal Act, the following section shall be substituted, namely:—

“7. (1) Any application, appeal or proceeding on the question of maintenance of a divorced woman under the provisions of the Code of Criminal Procedure, 1973, pending immediately before the

Amend-
ment of
section 4.

2 of 1974.

Substitu-
tion of
new
section 5.

Option to
remain
out of
the
purview
of the
Act.

Substitu-
tion of
new
section
for
section 7.

2 of 1974

Transi-
tional
provisions.

commencement of this Act, shall be disposed of and decided in accordance with the provisions of this Act.

(2) All orders, decisions, decrees made prior to the commencement of this Act for payment of maintenance by the former husband to a divorced woman under the provisions of the Code of Criminal Procedure, 1973, shall cease to operate from the date of commencement of this Act.

(3) It shall be open to the divorced woman to make a fresh application for maintenance under the provisions of this Act.

(4) It shall not be open to the former husband to claim refund of the amount already paid.”.

STATEMENT OF OBJECTS AND REASONS

The Muslim Women (Protection of Rights on Divorce) Act, 1986, was enacted in May, 1986. Its introduction and enactment was accompanied by a national controversy and that controversy has not abated even now. In fact, a plethora of orders and judgments, from the level of the lower Courts to that of the High Court on the application of this Act have added to the confusion, while its constitutionality itself remains under challenge in the Supreme Court.

The Act was supposed to codify the Shariat Law on the maintenance of Muslim divorcees. However, many provisions of this Act are not wholly in accordance with the *Shariat*. Thus a sense of unease persists in the minds of the Muslim community. At the time of its passage through the Parliament a large number of amendments were proposed but either they were not pressed or they were voted out because it was felt in the then existing political situation the Bill should be passed as it was, and later amended, if necessary. Of late, a number of Muslim organisations have asked for a review and possible amendment to the Act to bring it in line with the *Shariat* as well as to fill in any lacuna or omissions that have come to light.

Hence this Bill.

NEW DELHI;

May 13, 1988.

SYED SHAHABUDDIN

BILL No. 78 OF 1988

A Bill to provide for banning of smoking and for matters connected therewith.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

Short title, extent and commencement.

1. (1) This Act may be called the Banning of Smoking Act, 1988.

(2) It extends to the Union territories only.

(3) It shall come into force at once.

Definition.

2. In this Act, unless the context otherwise requires, 'cigarettes' include cigars or tobacco or beedi or any other like product used for smoking.

Banning of smoking cigarettes.

3. The smoking of cigarettes in any place is hereby banned.

4. No persons shall manufacture, purchase or sell or distribute cigarettes.

Ban on manufacture and trading in cigarettes.

5. (1) Any person found smoking cigarettes or violating the provisions of section 4 shall be punishable with imprisonment for a term which shall not exceed four years or with fine not exceeding rupees one thousand or with both:

Punishment.

Provided that if an employee of the Central Government or of its undertakings or of a Union territory administration is found guilty of an offence under this Act, he shall also be liable to disciplinary action that may be initiated against him by his employer:

Provided further that if an employee is found guilty of an offence under this Act on more than two occasions, his services shall be terminated.

(2) The provisions of this section shall not apply to foreigners visiting India or to the employees of Embassies/High Commissions, who are not Indian nationals.

6. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

Smoking has become one of the habits of the younger generation of the country. The number of smokers has been increasing day by day. Smoking causes adverse effects on the health of smokers and many of them die at an early age.

In some countries smoking has been banned. In order to curb this bad habit and to ensure good health to the people, a legislation to ban smoking is necessary. The Central Government has to give a lead by banning smoking in the Union territories and the State Governments can follow suit.

Hence this Bill.

NEW DELHI;

April 8, 1988.

G. S. BASAVARAJU

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the Bill empowers the Central Government to make rules for carrying out the purpose of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL NO. 68 OF 1988

A Bill to provide for total prohibition and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Thirty-ninth year of the Republic of India as follows:—

1. (1) This Act may be called the Prohibition Act, 1988.	Short title, extent and commencement.
(2) It extends to the Union territories only.	Imposition of prohibition.
(3) It shall come into force at once.	
2. With effect from the commencement of this Act, total prohibition shall be imposed.	
3. No person shall manufacture, sell, purchase or distribute alcohol or other intoxicating drinks.	Banning of manufacture and sale of alcohol products.

Punish-
ment.

4. Any person found consuming alcohol or any other intoxicating drink or violating the provisions of section 3 shall be punished with imprisonment for a term not exceeding three years or with fine not exceeding rupees one thousand or with both:

Provided that the provisions of this section shall not apply to foreigners visiting India.

Power to
make
rules.

5. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

In our country, the habit of drinking has been on the increase for the last so many years. Offering of drinks at parties and other social gatherings has become fashion of the day. It is seen that drinking habits of a large number of people have spoiled their families and also affected their health adversely. Drinking of alcohol is responsible for causing many diseases and has also led to the increase in corruption in the country. Therefore, it is high time that a legislation is introduced for imposing total prohibition in the country.

Hence this Bill.

NEW DELHI;

April 8, 1988.

G. S. BASAVARAJU

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a **normal character**.

BILL NO. 85 OF 1988

A Bill to provide for a comprehensive policy for the development of the Youth in the country.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

Short title,
extent and
com-
mence-
ment.

Defini-
tions.

1. (1) This Act may be called the Youth Welfare Act, 1988.
(2) It extends to the whole of India.
(3) It shall come into force at once.
2. In this Act, unless the context otherwise requires,—
 - (a) 'appropriate Government' means in the case of a State, the State Government and in the case of a Union territory, the Union Government;
 - (b) 'youth' means all persons between fifteen and twenty-five years of age;

(c) 'youth organisation' means an organisation of youth which provides for universal membership, without any discrimination on the basis of race, religion, language, caste or sex and the constitution of which provides for its democratic functioning in respective States or Union territories, as the case may be.

3. The appropriate Government shall provide to the youth—

- (a) compulsory and free education including technical education;
- (b) materials like books, note-books, stationery, etc. free of cost;
- (c) free hostel facilities; and
- (d) scholarships to deserving students.

Compulsory and free educational facilities.

4. (1) The youth shall have representation in the management or advisory boards at all levels of administration for schools as well as in institutions of higher and specialised education

(2) Students unions in all educational institutions shall be formed through elections by secret ballot.

Participation of youths in management or administration of schools, etc.

5. The appropriate Government shall provide—

- (a) facilities to the youth for participation in sports activities both inside and outside the country;
- (b) finances to sports organisations to be used for supply of sports material to the youth;
- (c) representation to youth organisations in sports associations and bodies; and
- (d) for the welfare of the sportsman, who represent the country in any event, for their life time.

Sports facilities to youths.

6. The appropriate Government shall provide nutritious meals free of cost to all the students in schools, colleges, universities and hostels.

Provisions of nutritious meals in schools, etc.

7. The appropriate Government shall provide proper and regular medical and health care to the youth free of cost.

Medical care to the youth.

8. The appropriate Government shall evolve a scheme under which young girls and boys shall be provided training in modern apprenticeship trades, vocations, etc. in factories and vocational institutions.

Training of youths in trade, vocation, etc.

Appoint-
ment of
expert
com-
mittees.

Provi-
sion of
employ-
ment.

Power to
make
rules.

9. The appropriate Government shall appoint expert committees in every district consisting of eminent educationsists, doctors, psychologists and agriculturists to recommend the type of education or training in any avocation that is to be imparted to a boy or a girl of the district after he or she has passed the tenth class examination.

10. The appropriate Government shall provide proper and gainful employment to the youth after their training or unemployment allowance, as may be prescribed, in lieu thereof, till they are provided employment.

11. The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Since independence, no clear-cut youth policy has been laid down. It is high time that there is a youth policy for their proper development and utilisation in the country.

In this context, it is utmost important to start a powerful, united, well-orchestrated reform movement under a comprehensive youth policy and to implement it in order to wean away the youth from backward feudal ideology, connected with the colonial era, and to fight against fanaticism, fundamentalism and separatism.

The education should be the right of the youth and not a privilege and employment should be guaranteed to them. The youth should be linked directly with the production process. The disparities between rural and urban youth should be eliminated gradually. The youth today is also facing serious health problem, absolute inadequacy in sports and cultural facilities. Youth belonging to Scheduled Castes, Scheduled Tribes and other backward classes are still reeling under poverty. There is no proper planning for the youth, their comprehensive development and proper utilisation. Youth organisations are also not consulted in dealing with the problems of youth. A comprehensive youth policy is, therefore, absolutely necessary.

Hence this Bill.

NEW DELHI;

July 4, 1988.

S. B. SIDNAL

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the appropriate Government shall provide compulsory and free education to all youth. It also provides for scholarships to deserving students. Clause 5 provides that appropriate Government shall provide facilities to youths for their participation in sports activities and finance sports federations. It also provides for the welfare of sports persons. Clause 6 provides that the appropriate Government shall provide nutritious diet in schools, colleges, universities and hostels. Clause 7 provides for regular supervision of health and medical care of the youth by the appropriate Government. Clause 8 provides that the appropriate Government shall evolve a scheme under which youth will be given training in factories or vocational institutions. Clause 9 provides for appointment of expert committees to recommend the type of education that is to be imparted to youths. Clause 10 provides that the appropriate Government shall be responsible for providing employment to all youths or unemployment allowance, as may be prescribed, till they are provided employment.

The Bill, if enacted, therefore, would involve expenditure from the Consolidated Fund of India in respect of Union territories.

An annual recurring expenditure of about rupees one hundred crores is likely to be incurred.

A non-recurring expenditure of about rupees two crores is also likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of detail only and as such the delegation of legislative power is of a normal character.

BILL No. 84 OF 1988

A Bill to provide for the utilisation of human resources in the best interests of the country and for matters connected therewith.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Human Resources (Utilisation) Act, 1988.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. (1) Any person, who does any meritorious work, as mentioned in the Schedule, shall be awarded national merit certificate by the Central Government.

(2) The Central Government shall constitute a national committee consisting of the Prime Minister, the Chief Ministers of the States and Chief Administrators of Union territories for awarding the national merit certificates under sub-section (1).

(3) All the State Governments and the Union territory administrations shall set up committees to make recommendations to the national committee for the award of the national merit certificates.

Short title, extent and commencement.

National merit certificate.

Preference in the matter of employment.

3. (1) Any person, who has been awarded national merit certificate under section 2, shall be given preference in the matter of employment under the Central Government or Union territory administration and in any corporation or undertaking under the control of the Central Government or Union territory administration.

(2) Any person, who is awarded a certificate after his joining the service under the Central Government or Union territory administration, shall be given preference in promotions to the next higher grade.

Free education to the students

4. Any student who is awarded the national merit certificate, shall be given free education, including technical and medical education, and preferential treatment in the matter of allotment of land.

Power to make rules.

5. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

(2) Every rule made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

THE SCHEDULE

(See section 2)

1. Making ten persons literate from amongst illiterate persons near his place of residence.
2. Helping atleast ten children, especially those belonging to backward classes or economically weaker sections of society, admitted in schools.
3. Plantation of atleast twenty trees.
4. Helping in registration of atleast ten cases of hoarding or corruption, black-marketing, evasion of income-tax, sales-tax, customs'duty, excise duty, etc.
5. Developing of atleast one acre barren land into fertile land.
6. Performance of atleast five works connected with flood/drought relief measures or soil erosion and afforestation.
7. Performance of atleast five works connected with maintenance of roads, wells, ponds, canals, etc. or active participation in the construction of schools, hospitals, etc.
8. Helping in initiation of action against inefficient and corrupt Government officials in ten casts.
9. Performance of works of patriotism and for promotion of unity and integrity of the nation.
10. Performance of works connected with the maintenance of communal harmony or helping in initiation of action against terrorists and against those who preach communal hatred.
11. Showing right path to the anti-social and anti-national elements.
12. Helps and saves the lives of people from death during natural calamities.
13. Helps in capturing robbers, dacoits, extremists, naxalites, foreign spies, anti-national elements, etc.

STATEMENT OF OBJECTS AND REASONS

Today, there are serious challenges to the unity and integrity of the country, communal harmony and brotherhood. Good conduct, patriotism, love for the country and discipline are rarely seen. Vested interests are dominating everywhere. Young generation has become frustrated, disappointed, indisciplined, confused and misguided. Economic imbalances and exploitation of people, etc. have assumed alarming proportions.

The need of the hour is to channelise the youth force in a proper direction for the nation building tasks. The Bill seeks to provide for achieving this task by providing incentives to youth force and inculcating sense of patriotism and national spirit which are essential for the country.

Hence this Bill.

At New Delhi;

July 4, 1988.

S. B. SIDHWA

FINANCIAL MEMORANDUM

Clause 2(1) of the Bill provides for awarding the national merit certificates by the Central Government. Clause 2(2) provides for the constitution of a national committee consisting of the Prime Minister, the Chief Ministers of the States and Chief Administrators of Union territories for awarding the national merit certificates. Clause 2(3) provides for the State Governments and the Union territory administrations to set up committees to make recommendations to the national committee for the award of the national merit certificate. Clause 4 provides for provision of free education, including technical and medical education, to such students who are awarded national merit certificate. As far as the committees set up by the State Governments are concerned the expenditure will be met out of the consolidated fund of the respective States. However, for the committees set up by the Union territory administrations and for other matters, the Central Government will have to incur expenditure out of the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees ten crores per annum is likely to be involved from the Consolidated Fund of India.

It is also likely to involve a non-recurring expenditure of about rupees five crores.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill empowers the Central Government to make rules for carrying out the purposes of this Bill. Since the matters on which rules are to be made are matters of detail only, the delegation of legislative power is of a normal character.

BILL No. 69 of 1988

A Bill further to amend the Constitution of India.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1988.

(2) It shall come into force at once.

2. In article 74 of the Constitution,—

(i) for clause (1), the following clauses shall be substituted, namely:—

“(1) There shall be a Council of Ministers with the Prime Minister at the head and the strength of the Council of Ministers shall not exceed one-tenth of the total membership of the House of the People.

(2) The Council of Ministers shall aid and advise the President who shall, in the exercise of his functions, act in accordance with such advice;

Short title and commen-
tary.

Amend-
ment of
article
74.

Provided that the President may require the Council of Ministers to reconsider such advice, either generally or otherwise, and the President shall act in accordance with the advice tendered after such reconsideration.”;

(ii) clause (2) shall be re-numbered as clause (3) thereof.

3. In article 163 of the Constitution,—

(i) for clause (1), the following clauses shall be substituted, namely:—

“(1) There shall be a Council of Ministers with the Chief Minister at the head and the strength of the Council of Ministers shall not exceed one-tenth of the total membership of the Legislative Assembly of the State or five, whichever is more.

(2) The Council of Ministers shall aid and advise the Governor in the exercise of his functions, except in so far as he is by or under this Constitution required to exercise his functions or any of them in his discretion.”;

(ii) clauses (2) and (3) shall be re-numbered as clauses (3) and (4) thereof, respectively.

Amend-
ment of
article
163.

STATEMENT OF OBJECTS AND REASONS

The Constitution does not provide for a limit on the size of the Council of Ministers either at the Centre or in the States. This has led to the formation of large and unwieldy Ministeries which have no justification on functional grounds. In some cases almost every member of the Legislature belonging to the ruling party has been inducted in the Council of Ministers. To accommodate a large number of Ministers, ministries and departments have sometimes to be augmented into mini-portfolios.

In fixing the size of the Council of Ministers the Prime Minister or the Chief Minister is expected to abide by some well-known conventions. But, over the years, unfortunately, the conventions have been lost sight of and virtually forgotten. It is, therefore, necessary in public interest to set a precise statutory limit on the size of the Council of Ministers. The Head of the Government should, however, continue to enjoy freedom in choosing his colleagues from either House in case of bicameral legislatures within the numerical limit.

Since the Government is subject to a vote of confidence in Lok Sabha or the Legislative Assembly, as the case may be, the size of the Council of Ministers should be fixed in relation to the strength of the lower House.

Hence this Bill.

NEW DELHI;
June 30, 1988.

SYED SHAHABUDDIN.

BILL No. 82 of 1988

A Bill to provide for measures to strengthen secularism in India.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Promotion of Secularism Act, 1988.
(2) It extends to the whole of India.
(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short title,
extent
and
commen-
cement.

2. In this Act,—

(a) “communal propaganda” includes propagation of any material likely to or tending or intending to sow or spread disaffection or ill-will or disharmony or affect the harmonious relationship between the people of different communities or people pursuing different religions or speaking different languages or residing in different States;

Defini-
tions.

(b) “State” means the State as defined in article 12 of the Constitution of India.

Obligation of the State.

3. (1) It shall be the duty of the State to promote secularism, take steps for propagation of secular thought and to curb communal and other forms of divisive propaganda and such other subversive activities.

(2) The State shall promote and encourage the activities of organisations and institutions dedicated to propagation of secular thought, building of communal harmony and strengthening fraternity amongst the people of India irrespective of their caste, creed, religion or language.

(3) No religious or denominational ceremony shall be performed and no religious denominational prayer or song shall be recited at any function held under the auspices of or with the financial assistance of the State.

Explanation.—The term “religious or denominational ceremony” in sub-section (3) means any ceremony based on or connected with any particular religion or denomination but shall not include anything commonly applicable to all major religions in India.

Provided that any *Sarvadharma Prarthna* shall not be deemed to be a religious prayer within the meaning of this sub-section.

Ban on communal propaganda and activities.

4. (1) All types of communal propaganda and activities are hereby banned.

(2) Any person found guilty of making any communal propaganda by means of words spoken, written or printed or by any audio-visual means shall be liable to be punished with rigorous imprisonment which may extend to five years or with fine which may extend to rupees one lakh or with both.

(3) If any communal violence takes place as a result of any communal propaganda, any person found guilty of making the communal propaganda shall be punished with rigorous imprisonment which may extend to ten years and with fine.

Prohibition on communal publications.

5. (1) Printing or publishing of any news or report or article or a photograph tending or calculated to create communal hatred or having the likely effect of generating or encouraging communal prejudice or affecting harmonious relations between different groups of people subscribing to different religions or languages or belonging to different communities or otherwise jeopardising the communal peace, shall be prohibited.

(2) The Central Government shall proscribe and confiscate any newspaper or publication, whether printed or cyclostyled or xerographed or reproduced otherwise in any manner, which contains any material subversive of secularism.

(3) It shall be lawful for the Central Government to cancel registration of a newspaper found to be guilty of publishing in any form any material subversive of secularism:

Provided that no action to cancel the registration of any newspaper shall be taken by the Central Government except in consultation with the Press Council of India.

(4) Any proprietor or editor of a newspaper found to have published any material subversive of secularism or any person responsible for the

preparation or publication of the said material shall be punished with imprisonment for a term not exceeding five years and with fine:

Provided that when any communal riot takes place, wholly or partly due to such subversive writings, the punishment shall not be less than one year's imprisonment but may extend upto ten years' imprisonment.

6. (1) It shall be lawful for the Central Government to disband any organisation or institution, whether registered or not, which is found to be indulging in communal propaganda or in propagating ideas antithetic to secularism or inciting theocratic ideas.

Disbanding of communal organisations.

(2) Any person found to be associated with any institution or organisation which has been ordered to be disbanded shall be punished with rigorous imprisonment for one year and with fine.

7. (1) No action under sub-section (1) of section 6 shall be taken by the Central Government except on the basis of findings of a tribunal to be constituted under this Act to make recommendations to the Central Government as to whether an organisation or an institution is indulging in communal propaganda or activities antithetic to secularism.

Constitution of Tribunals.

(2) The tribunal shall consist of such number of members who are qualified to be appointed as High Court Judges.

8. (1) Any person convicted under this Act for activities subversive of secularism or for any other act constituting an offence under this Act and any editor or proprietor or person found responsible for any writing or publication prohibited by this Act, shall be disqualified from contesting any election under the Representation of the People Act, 1951, or under any law pertaining to local authority and shall also be barred from holding any post as a director of any company or as an office-bearer of any registered society or trust for a period of five years.

Disqualification as to contesting election, etc.

(2) Any person holding any public office shall cease to hold such office upon conviction for any offence under this Act.

43 of 1951.

1 of 1956

21 of 1860.

9. When an offence is committed by any company registered under the Companies Act, 1956, or any society or trust under the Societies Registration Act, 1860, or any corresponding law of any State, all directors and office-bearers and persons incharge of administration of the company society or trust as the case may be, shall not be punished and disqualified from holding any office if it is proved that the person concerned had tried his best to prevent the commission of the offence

Offences by companies.

10. (1) The Central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

Power to make rules.

(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session, immediately following the session or the successive sessions aforesaid, both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however, that any modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

STATEMENT OF OBJECTS AND REASONS

The Preamble to the Constitution of India proclaims India as a Sovereign, Socialist, Secular and Democratic Republic. It is, therefore, the obligation of the State to promote secular thought and protect secularism from communal and other divisive forces.

Communal propaganda destroys the fabric of the secular Indian society. There should be adequate provision to curb communal propaganda being carried on either by individuals, organisations or through the instrumentality of newspapers.

The Bill seeks to achieve these objects.

NEW DELHI;

July 11, 1988.

HAROOBHAI MEHTA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the State to promote secularism, take steps for propagation of secular thoughts and to curb communal and other form of divisive propaganda. Clause 7 provides for the constitution of Tribunal for the purpose of finding whether an organisation or an institution is indulging in communal propaganda or activities antithetic to secularism. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of about rupees fifty five lakhs per annum is likely to be involved.

No non recurring expenditure is likely to be incurred.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill gives power to the Central Government to give effect to the provisions of the Bill. It may also be necessary to frame rules for setting up the tribunal and to prescribe for procedure to be followed by it. These rules will relate to matters of detail only. As such, the delegation of legislative power is of a normal character.

BILL NO. 91 OF 1988

A Bill to give members of the public the right to reply to allegations made against them or mis-reporting or mis-representation concerning them in the press.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Right to Reply in the Press Act, 1988.

Short title and extent.

(2) It extends to the whole of India except the State of Jammu & Kashmir.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) 'medium newspaper' means a newspaper whose circulation according to the Registrar of newspapers for India is less than fifty thousand copies for each issue;

(b) 'newspaper' means any printed periodical work containing public news or comments whether published daily, weekly or monthly;

(c) 'Press Council of India' means the Press Council of India established under the Press Council Act, 1978; and

(d) 'small newspaper' means a newspaper whose circulation according to the Registrar of newspapers for India is less than twenty five thousand copies for each issue.

Right to reply in the press.

3. Every person, including an organisation of persons or a company, firm or partnership, shall have the right to require the editor of a newspaper to print a reply to a factually inaccurate or distorted report involving that person when such report has been made in a newspaper for which that editor is responsible.

Publication of reply within the prescribed time.

4. The replies demanded under section 3 shall be printed by the newspaper within three days of their receipt in the case of a daily newspaper and in the next issue in the case of other newspapers.

Procedure for publication of reply.

5. The replies demanded under section 3 shall be printed free of cost by the concerned newspaper and shall be of equal length to the report replied to and shall be printed on the same page at the same position and in the same type as the report replied to.

Punishment.

6. Subject to the provisions of section 7, any editor, who fails to publish a reply within the prescribed time, shall be guilty of an offence punishable on conviction by a fine of not less than—

- (a) rupees twenty five thousand in the case of small newspapers;
- (b) rupees fifty thousand in the case of medium newspapers; and
- (c) rupees one lakh in the case of other newspapers.

Appointment of a Panel.

7. (1) The Press Council of India shall appoint a Panel of any three of its members under the chairmanship of the Chairman of the Press Council of India to which demand for replies be referred to if disputed by an editor.

(2) The Panel shall determine, in each case of demand, within ten days of such reference, whether or not sufficient grounds exist for meeting a demand and shall inform those concerned accordingly.

STATEMENT OF OBJECTS AND REASONS

The Indian Press is by and large a responsible Press. However, there is a section of the Press which indulges in misreporting and misrepresentation. A person's reputation or business can be ruined by a single false newspaper report. Taking a legal action against persons responsible for such reports is an expensive and time consuming process. It is, therefore, necessary to give a statutory right of reply to ensure that individuals can set the record straight. Similar laws are already on the Statute Books of some democratic countries such as France, West Germany, Canada, Denmark, etc.

The Bill seeks to achieve this object.

NEW DELHI;

July 12, 1988.

V. N. GADGIL

BILL NO. 71 OF 1988

A Bill further to amend the Prevention of Corruption Act, 1947.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

Short title
and
commen-
cement.

1. (1) This Act may be called the Prevention of Corruption (Amendment) Act, 1988.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Omission
of section
6.

2. Section 6 of the Prevention of Corruption Act, 1947 shall be 2 of 1947. omitted.

STATEMENT OF OBJECTS AND REASONS

The Prevention of Corruption Act, 1947 is meant to prevent corruption among the public servants but section 6 of the Act creates many hindrances in prosecuting the public servants and stands as a stumbling block in the path of justice. It is accordingly, proposed to amend the Act by omitting this section.

Hence this Bill.

NEW DELHI;
July 7, 1988.

MADHU DANDAVATE

BILL NO. 80 OF 1988

A Bill further to amend the Agriculturists' Loans Act, 1884.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. This Act may be called the Agriculturists' Loans (Amendment) Act, 1988. Short title.

12 of 1884. 2. In section 4 of the Agriculturists' Loans Act, 1884, after sub-section (1), the following sub-section shall be inserted, namely:— Amend-
ment of
section 4.

“(1A) The rules may also provide so as to enable the farmers to obtain loans from any of the scheduled banks in India.”

STATEMENT OF OBJECTS AND REASONS

There are so many agencies for providing loans to farmers but nowhere farmer gets loan quickly. He might be given a pass book in which his capacity to take loans be kept up-to-date and scheduled banks may be authorised to give loans to such farmers according to their capacity. The State Governments may realise the loans from defaulter farmers as arrears of land revenue. Reserve Bank charges a very low rate of interest for loans taken by banks for advancing to farmers and farmers pay higher rate of interest. This will foster healthy competition among the scheduled banks for giving loans to farmers. Farmers will get loans according to their capacity quickly and without giving bribe. This will also effect economy in the administrative department of the Government.

NEW DELHI;
7th July, 1988.

MADHU DANDAVATE

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 2 of the Bill seeks to empower the State Governments to frame rules so as to provide for a convenient and speedy procedure for farmers to get loans from the scheduled banks. The existing procedure is very cumbersome with the result that the farmers have to waste a lot of time and energy to complete the formalities before they can get loans. The method of recovery of loans is also not satisfactory. The detailed procedure convenient to the farmers may be prescribed in the rules.

The delegation of legislative power is of a normal character.

BILL No. 81 OF 1988

A Bill further to amend the Indian Fisheries Act, 1897.

Be it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

Short title and commencement

1. (1) This Act may be called the Indian Fisheries (Amendment) Act, 1988.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amend-
ment of
section 3

2. In section 3 of the Indian Fisheries Act, 1897 (hereinafter referred to as the principal Act), after clause (2), the following clause shall be inserted, namely:—

“(2A) “mechanised fishing” means fishing by a boat fitted with an inboard engine.”.

Amend-
ment of
section 4.

3. In section 4 of the principal Act,—

(a) for the existing marginal heading the following marginal heading shall be substituted, namely:—

“Destruction of fish by explosives and mechanised fishing in inland waters and on coasts.”;

(b) after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) If any person resorts to mechanised fishing in any water to catch or destroy any of the fish therein, he shall be punishable with a fine which may extend to rupees five thousand only, or with confiscation of nets and boat or with both.”;

(c) for sub-section (2), the following sub-section shall be substituted, namely:—

“(2) In sub-section (1) and (1A), the word “water” includes the sea within a distance of 20 kms. of the sea-coast, creeks, rivers, canals, streams or any other water course where fishing is possible; and an offence committed under those sub-sections in such water shall be tried, punished and in all respects dealt with as if it had been committed on the land abutting on such water.”.

4. In section 5 of the principal Act, in sub-section (1), for the words “extend to two months, or with fine which may extend to two hundred rupees”, the words “extend to six months, or with fine which may extend to two thousand rupees or with both” shall be substituted.

Amend-
ment of
section 5.

5. In section 6 of the principal Act, in clause (a) of sub-section (5), for the words “one hundred” the words “two hundred” shall be substituted.

Amend-
ment of
section 6.

6. In section 7 of the principal Act, in sub-section (1), after clause (b), the following clause shall be inserted, namely:—

Amend-
ment of
section 7.

“(c) if the person in charge of the mechanised boat refuse to cease forthwith the fishing operation on being directed to do so.”.

STATEMENT OF OBJECTS AND REASONS

1. The purpose of the amendments proposed to the Indian Fisheries Act, 1897 is two fold:

Firstly, to render socio-economic protection to the traditional fishermen community numbering about 6.5 million living in over 1800 villages along the entire 5650 kms. coast-line of our country, who earn their livelihood with country-boats and nets, but whose survival is now threatened by the intrusion of mechanised boats into their centuries old traditional fishing grounds in the inshore coastal and inland waters.

Secondly, to protect the delicate fish ecology and fish breeding grounds, which are generally located in the warm nutrient rich shallow coastal waters; to prevent from reckless mechanised fishing which causes killing of fish eggs, alarming depletion of fish resources, disastrous decline in daily fish catch, rendering lakhs of poor fishermen impoverished.

2. The Planning Commission, in accordance with the recommendations of the National Commission on Agriculture, has directed that firm steps be taken to prevent mechanised boats from fishing near the shores and the necessary punitive laws be passed and a protective force provided. These steps are considered necessary to prevent decline of fish stock, cutting of net by mechanised boats and consequent economic crisis for the poorer classes, who are pursuing their centuries old, traditional, labour intensive, rural based occupation.

3. The Bill seeks to achieve the above objects.

NEW DELHI;

July 8, 1988.

MADHU DANDAVATE

BILL No. 61 OF 1988

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Thirty-ninth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1988.

Short title and commencement.

(2) It shall come into force at once.

2. In article 16 of the Constitution, after clause (4), the following clause shall be inserted, namely:—

Amendment of article 16.

“(4A) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of physically handicapped persons including the blind or war widows who, in the opinion of the State, are not adequately represented in the services under the State.”

STATEMENT OF OBJECTS AND REASONS

Ours is a welfare State and the Constitution provides to all citizens, irrespective of their sex, caste or creed, equal right in the matter of employment in the State services. However, exception in this regard has been made in case of backward class of citizens under article 16. Seeing the backwardness of a large number of the citizens, these provisions, no doubt, are of much significance. But, equally important is another class of citizens, like physically handicapped and war widows, to whom this facility of reservation in services should be extended immediately. The State should endeavour to improve the standard of these citizens economically and socially. In order to achieve this goal, an amendment to the Constitution is proposed.

NEW DELHI;
April 11, 1988.

JAI PRAKASH AGARWAL

SUBHASH C. KASHYAP,
Secretary-General.